



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

September 30, 1996

Mr. Roland Castaneda  
General Counsel  
Dallas Area Rapid Transit  
P.O. Box 660163  
Dallas, Texas 75266-0163

OR96-1795

Dear Mr. Castaneda:

You ask whether certain information is subject to required public disclosure under the Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 101217.

The Dallas Area Rapid Transit ("DART") received a request for "all completed reports, audits, evaluations or investigations made of, for, or by DART relative to . . . [a] claim" for damages sustained as a result of the traffic accident that occurred on October 11, 1995. You assert that the requested information is excepted from required public disclosure based on section 552.103 of the Government Code.

Section 552.103(a) applies to information

- (1) relating to litigation of a civil or criminal nature or settlement negotiations, to which the state or a political subdivision is or may be a party or to which an officer or employee of the state or a political subdivision, as a consequence of the person's office or employment, is or may be a party; and
- (2) that the attorney general or the attorney of the political subdivision has determined should be withheld from public inspection.

To secure the protection of section 552.103(a), a governmental body must demonstrate that requested information "relates" to a pending or reasonably anticipated judicial or quasi-judicial proceeding. Open Records Decision No. 588 (1991). In this instance, we

conclude that DART has established that litigation is reasonably anticipated. *See* Open Records Decision No. 638 (1996). Accordingly, DART may withhold the information from required public disclosure based on section 552.103 of the Government Code.<sup>1</sup>

We are resolving this matter with this informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and may not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Kay Guajardo  
Assistant Attorney General  
Open Records Division

KHG/rho

Ref.: ID# 101217

Enclosures:       Submitted documents

cc:    Mr. James W. Mills, III  
      The Mills Law Firm  
      8333 Douglas Avenue, Suite 1470  
      Dallas, Texas 75225  
      (w/o enclosures)

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<sup>1</sup>We note that if the opposing party in the anticipated litigation has seen or had access to any of the information in these records, there would be no justification for now withholding that information from the requestor pursuant to section 552.103(a). Open Records Decision Nos. 349 (1982), 320 (1982). In addition, the applicability of section 552.103(a) ends once the litigation has been concluded. Attorney General Opinion MW-575 (1982); Open Records Decision No. 350 (1982).